

CASCADE COUNTY
ZONING BOARD OF ADJUSTMENT
Meeting Minutes

November 18, 2019

01:30 PM

Room #114, Courthouse Annex
325 2nd Ave N, Great Falls, MT 59401

Board Members: Bill Austin, Charles Kuether, Michele Levine, Leonard Reed, and Rob Skawinski

Notice: Pursuant to MCA 2-3-212(1), the official record of the minutes of the meeting is in audio form, located at cascadecountymt.gov and the Planning Office. This is a written record of this meeting to reflect all the proceedings of the Board. MCA 7-4-2611 (2) (b). Timestamps are indicated in red, within each agenda item below, and will direct you to the precise location should you wish to review the audio segment.

These minutes are **paraphrased** and **reflect** the proceedings of the Zoning Board of Adjustment. These minutes are considered a draft until the Zoning Board of Adjustment approves them.

Staff Present: Anna Ehnes, Destiny Gough, and Charity Yonker.

Public Attendees: Bernadette Bankhead, Steve Bankhead, Donna Hardesty, Laura Hodges, Buster Hyndman, Eileen Hyndman, Phil Nappo, Lindsey Nichols, Ann Rockwell, and Nicholas Rockwell.

1. **CALL TO ORDER:** Michele Levine called the meeting to order at 08:58 AM

2. **ROLL CALL**

BOARD MEMBERS PRESENT: Rob Skawinski, Charles Kuether, Michele Levine, and Leonard Reed.

BOARD MEMBERS ABSENT: Bill Austin.

3. **APPROVAL OF MINUTES:**

A. August 28, 2019, Meeting Minutes

Charles Kuether [00:00:30]: Asks questions regarding the form of meeting minutes and makes a motion to approve the minutes with the removal of extraneous non-deliberative annotations.

Rob Skawinski seconds the motion to approve.

Michele Levine [00:02:05]: Makes a note of an error in the minutes at pages 8, 9, 12, 14, 22 and moves to amend the minutes with the corrections.

Charles Kuether seconds the amended motion.

All in favor, motion carries 4-0.

B. August 28, 2019, Meeting Transcript

Charles Kuether [00:08:20]: Asks for clarification regarding the differences between the transcript and minutes. Destiny Gough and Charity Yonker respond and agree to verify the audio recording and clean-up various extraneous annotations in accordance with the previous discussion. Charles Kuether makes a motion to approve the transcript and amends the motion to approve the transcript with corrections, Rob Skawinski Seconds both motions.

All in favor, motion carries 4-0.

C. September 17, 2019, Meeting Minutes (Pending Completion)

D. October 24, 2019, Meeting Minutes (Pending Completion)

4. OLD BUSINESS

A. Rockwell Scales

Board Discussion:

Michele Levine [00:11:30]: Moves meeting to the Rockwell Scales old business item and requests Staff provide an update.

Anna Ehnes [00:11:40]: Clarifies the information that has been provided to the Board and notes that the applicant is available.

Chairman Bill Austin arrives.

Michele Levine [00:12:10]: gives a brief update to the Chair is provided and requests the applicant provide more information regarding the property.

Nick Rockwell [00:12:35]: Mr. Rockwell provides an update to the progress that has been made on the screening, fencing, and earth berm. Mr. Rockwell clarifies some questions from the Board members regarding the photos that have been provided, the goal of the screening, and scope of his operations.

Michele Levine [00:17:11]: Asks staff where this project is with compliance.

Charity Yonker [00:17:15]: Provides a response that the only condition in question was regarding the screening.

Rob Skawinski [00:17:40]: Asks regarding the specific language of the condition.

Charity Yonker [00:18:17]: Reads Condition 3 of Special Use Permit 01-2017.

The Board discusses the project amongst themselves, asks the applicant additional information about the fencing, additional permit requirements, and the impacts of the outdoor painting.

Michele Levine [00:23:53]: opens the floor for public comments.

Eileen Hyndman [00:24:10]: Presents historical and procedural information regarding the business on the property referencing previous meetings, staff reports, and the application. Reiterates conditions of the SUP. Asserts that the business has outgrown its approval and provides information regarding the various expansions.

Donna Hardesty [00:43:10]: Asserts that she may be unable to sell her property due to Rockwell Scales, and discusses the various impacts of the business on her property and the area as a result of noise and traffic. Expresses concerns regarding environmental contamination from the business, and the impact to surrounding property values.

Phil Nappo [00:47:41]: States he has been at his location since 1978, and that he did not buy out there for a business like this to move in. Expresses his conflicts with the business and concerns with the tax designation of the property. Provides some historical and procedural information regarding the business and his discussions with various County officials.

Donna Hardesty [00:53:05]: Asks why the neighboring property owners were not brought in sooner in the process.

Rob Skawinski [00:53:51]: Provides information about the scope of the Board's authority and jurisdiction.

Michele Levine [00:54:22]: Requests this portion of the meeting stay with public comment and leave questions and additional Board discussion for later.

Ann Rockwell [00:54:34]: Expresses concerns over what the ultimate resolution to the conflict

may be, and that she feels information is being exaggerated in the meeting and on social media. States the environmental department has been to the property and that they have done everything they need for the County. Reiterates they have done everything they needed to do, and wonders where this will end.

Michele Levine [01:00:21]: asks if there are questions or comments from the Board.

Bill Austin [01:00:22]: Agrees with the comments Rob Skawinski made at 00:53:51.

Charity Yonker [01:01:20]: Provides information regarding the appeal process and clarifies duties and responsibilities of the Board. Clarifies requirements of the approved Special Use Permit and what is under the purview of the Board.

Michele Levine [01:02:41]: Asks what remedies should be sought if the Zoning Board does not have authority.

Charity Yonker [01:02:45]: Indicates that she and the Planning Department have reviewed the complaints and that there are indications this is a private civil matter, that does not involve the County.

Charles Kuether [01:03:23]: States that his involvement in this issue has been limited, but that he believes that the Board has done as much as they can to address the issues as they have been brought before the Board during his term, but clarifies that he does not speak for the entire Board.

Charity Yonker [01:04:55]: States the Planning Department is drafting a Zoning Violation Determination Letter on this issue that can be appealed by the ZBOA.

Michele Levine [01:05:40]: Asks regarding the driveway and if also needs some gating for mitigation of impacts.

Charity Yonker [01:05:55]: Notes that the driveway was expanded to mitigate other complaints regarding access and concerns regarding loading on the road.

Charles Kuether [01:06:10]: Asks various questions regarding the determination letter and the potential appeal process. Charity Yonker answers the questions.

Michele Levine [01:06:36]: Asks if the driveway is subject to the fencing requirement.

Charity Yonker [01:07:00]: Notes that the condition doesn't speak to that, but only that screening is done to cover materials. Also notes that previous Planning Directors have made representations that the proposed mitigation would be sufficient without the gate, and that an earthen berm would suffice for screening.

Board discussion possible gating of the approach. Consensus appears reached that gating would be insufficient to mitigate the concerns regarding this property and the topic is dropped.

Michele Levine: opens the floor again for final comments.

Nicholas Rockwell [01:09:38]: Provides information regarding the length of the culvert and the upgraded approach. Asserts that the condition of the road was already an issue and exhibited wear before his business started there. Provides information regarding his business and his customer base.

Eileen Hyndman [01:11:00]: Expresses concerns regarding the process and procedure for appeals. Expresses concerns with the content of the Staff Report and application and the applicability of the regulations.

Board discussion closed.

5. NEW BUSINESS: NONE

6. PUBLIC COMMENTS REGARDING BOARD MATTERS:

Renee Munson [01:14:43]: Expresses concerns regarding the scope of authority of the ZBOA.

Board Members [01:15:20]: clarify the scope of the appeals process and the different types of appeals, whether it is an appeal of a Zoning Official's determination to the ZBOA, or an appeal of the ZBOA's decision, which are two separate appeals processes. A discussion is had with Renee Munson regarding her various questions regarding the appeals process and how they relate to the appeal of the Big Sky Cheese decision.

7. BOARD MATTERS:

Board Members [01:19:30]: discuss the pending appeal of the Big Sky Cheese decision and ask general questions regarding the process and being able to view the information of the appeal. Board members ask questions regarding protocol and whether or not it would be appropriate for them to attend the meeting and what role the Board and staff will be expected to have in the process.

8. ADJOURNMENT:

Leonard Reed [01:23:19]: makes a motion to adjourn.

Rob Skawinski: seconds the motion.

All in favor 5-0, meeting adjourned at 10:23 AM